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# PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

01638.0010.NPUS02

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on \_\_\_\_\_

Signature \_\_\_\_\_

Typed or printed name \_\_\_\_\_

Application Number

10/813,435

Filed

March 31, 2004

First Named Inventor

Dennis POSTUPACK

Art Unit

1791

Examiner

Jason L. Lazorcik

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

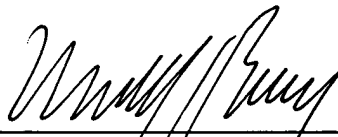
Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒ attorney or agent of record. 39,604  
Registration number \_\_\_\_\_

☐ attorney or agent acting under 37 CFR 1.34.  
Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

  
\_\_\_\_\_  
Signature  
Michael J. Bell  
\_\_\_\_\_  
Typed or printed name

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Telephone number

January 7, 2008

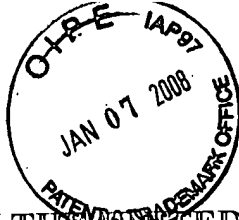
Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☒ \*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:  
Dennis POSTUPACK et al.

Appl. No. 10/813,435

Filed: March 31, 2004

For: METHOD AND APPARATUS FOR  
STRENGTHENING GLASS

Confirmation No. 3804

Art Unit: 1791

Examiner: Jason L. Lazorcik

Atty. Docket: 01638.0010.NPUS02

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants request review of the Final Office Action in the above-identified application pursuant to OG Notice of 12 July 2005. Applicants believe the Final Office Action includes clear errors in the rejections and omissions of elements that result in a clear deficiency in the *prima facie* case in support of the rejection. The errors and omissions are based on the legal and factual basis of rejection. Some of the errors and omissions are discussed below.

Currently, Claims 1, 6-16, 46, 49, 55-59, 61 and 64-88 are pending, with Claims 1, 46, 61 and 73 being independent. All of the pending claims were finally rejected on July 6, 2007. Minor amendments to these claims (including cancellation of several claims) were made in the After Final communication dated October 2, 2007, and November 5, 2007, the amendments being indicated as entered in the Advisory Action dated November 21, 2007. The final rejection remains outstanding as indicated by Section 7 of the Advisory Action dated November 21, 2007

NOTE: The Advisory Action, as well as the Office Action Summary form accompanying the Final Rejection, do not correctly identify the pending claims. Nevertheless, discussions of the claims within the body of the Final Rejection and the Advisory Action correctly identify the pending claims.

With respect to Claims 1, 46 and 61, the first 3 independent claims, at least one clear omission rendering deficient the *prima facie* case in support of the rejection is the missing limitation of “for about 10 seconds or less.” As admitted by the rejection (Final Office Action dated July 6, 2007; bottom of Page 3), the prior art teaches a lower limit of at best 15 seconds. As discussed in the Responses (April 11, 2007; Pages 7-8, October 2, 2007, paragraph bridging Pages 7-8), a fair reading of the prior art as a whole clearly reveals that this value cannot in any way anticipate about 10 seconds or less. Further, a fair reading reveals that this value cannot even render obvious the range of 10 seconds or less. The prior art range includes a lower limit which is 50% larger than the maximum of the claimed range. Therefore, there is no justification for such an assertion. Thus, not only is the claim not anticipated as indicated by the Final Rejection, but it is also not rendered obvious by the prior art. Applicants cite to *MPEP 2131.03* in support of this assertion.

For similar reasons as the prior art deficiencies discussed above, the anticipatory rejection of Claims 6, 49 and 64 is incorrect. These claims recite an even narrower range of 3 to 5 seconds.

With respect to the last independent claim, Claim 73, at least one clear omission is the missing limitation of “dipping the formed glass article in a molten salt bath having a temperature more than said preheating temperature” in conjunction with the limitation of “maintaining the glass article at a temperature between the strain point temperature of the glass and about 150 degrees below.” According to the Final Rejection (Final Office Action dated July 6, 2007; bottom of page 4), the prior art teaches that the “converse is also true,” that is, the salt bath can have a higher temperature than the glass. Nevertheless, there is no teaching or suggestion in the prior art to process the glass with the temperature specifics recited in Claim 73. Thus, the prior art does not disclose processing of a glass article were a glass article is dipped in a salt bath having a higher temperature than the glass *and* maintaining the glass article between the strain point and 150 degrees below the strain point as claimed. Such omission renders improper the anticipatory rejection. Further, Applicants believe that the lack of teaching in the prior art

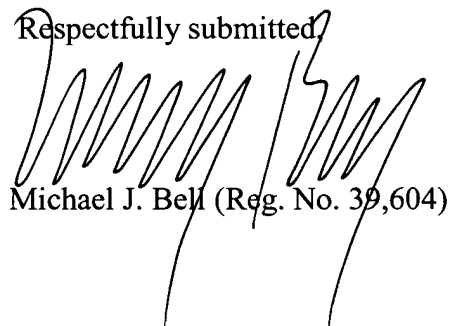
also prohibits a *prima facie* case of obviousness. *See also* the Responses of April 11, 2007, top of Page 8, and the Response of October 2, 2007, at the bottom of Page 8.

Further relating to this argument, the prior art does not disclose maintaining the glass article between the strain point temperature and 150 degrees below the strain point. All of the independent claims include this limitation. As such, another clear omission is the lack of such disclosure in the prior art, rendering improper the anticipatory rejection of the claims.

With respect to the 112 rejection of dependent Claim 74, Applicants note that at least the values identified for the ranges of the temperatures of the bottles and the salt baths on page 18 of the Specification clearly enable and disclose the limitation of Claim 74. One example recited in the lower portion of page 18 is that the bottle temperature can be 540°C and the temperature of the salt bath can be between 550 and 750°C. As such, the Specification clearly discloses the limitation of Claim 74. *See also* the Response of October 2, 2007; middle of page 7.

A review of the Final Rejection, at least on the basis of the above-described errors, is earnestly requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael J. Bell', is written over the typed name and registration number.

Michael J. Bell (Reg. No. 39,604)

Date: January 7, 2008

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